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March 6, 2017

Philip Yeane

Office of Regional Counsel

U.S. E.P.A. Region III

1650 Arch Street

Phila, PA 19103-2027

***RE: Godfrey v. Upland Borough, 10381 of 2015, Delaware County.***

Dear Mr. Yeane

Enclosed please find a subpoena. If it is possible the documents sought could be put on a disc I would prefer that. If you have any questions, I can be reached at 970-385-0846 March 7-20, 2017 or 215-564-4000 after March 20, 2017.

Sincerely,



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J. Michael Considine, Jr.



IN THE COURT OF COMMON PLEAS  
DELAWARE COUNTY, PENNSYLVANIA

Denise M. Marusco Godfrey :  
And : No. 2015-10381

Byron J. Godfrey, h/w  
v.

Upland Borough and Delaware County Regional  
Water Control Authority (DELCORA)

SUBPOENA TO ENVIRONMENTAL PROTECTION AGENCY

1. Flood plain maps encompassing the premises (hereinafter referred to as the premises) at 310 10<sup>th</sup> Street, Upland Borough, Delaware County (premises), dated 1975-present.

2. Sewer maps indicating the sewer system(s) located on the premises 1940-present.

3. Records of DELCORA indicating deficiencies in the sewer lateral on the premises from the June 12, 2013 video, or from any other videos, and the videos.

4. Documentation which shows the cause of the problems with storm water and sewer water of the premises and on properties affected by the consent decree of Nov. 10, 2015 in the U.S..D.Ct., E.D.Pa. case of U.S., et al v. DECORA, No.15-4652 (hereinafter referred to as the consent decree)

5. Documents showing efforts DELCORA or Upland Borough made to alter, change the direction of , effect, improve or increase or decrease the natural flow of water onto, under or upstream, or drainage flows , grades or elevations, or increased the rate at which storm water runoff was discharged onto or, or directed storm water to, the premises, that would not have otherwise flowed, into the premises, or within Upland Borough, 1940-present.

5. All storm sewer maps for DELCORA 1940-present. .

6. All sanitary sewer maps for DELCORA 1940-present.

7. All documents indicating complaints by landowners serviced by DELCORA regarding storm and or sanitary sewer water entering their property 1975-present.

8. DELCORA meeting notes on which problems on the premises were discussed, 1991-present.

12. Documents indicating the cause of the water problems on the premises and on properties within Upland Borough.

13. Documents indicating some party other than DELCORA or Upland Borough was or is responsible for storm water or sewer water entering Petitioner's premises at any time since 1991.

14. Documents indicating all efforts DELCORA have made to alleviate the problems of effluent entering premises in Upland Borough 1991-present..

15. Documents indicating complaints received by the EPA, DELCORA or Upland Borough from residents in Upland Borough about water entering



their premises, coming from manholes or of mingling of storm water with sanitary sewer water 1991-present..

16. Documents indicating all efforts DELCORA has made to comply with the consent decree.

17. Documents indicating that lining of laterals has solved the problem of water entering the premises of landowners in Upland Borough.

18. All correspondence and e-mails between DELCORA and the E.P.A. dated after the entry of the consent decree.

19. Documents by which DELCORA or Upland Borough was put on notice that effluent from Sanitary sewers was leaking into storm water sewer pipes in Upland Borough or anywhere in Delaware County 1991-present and what efforts were made to stop this from happening.

20. Notices by DELCORA or Upland Borough regarding premises in Upland Borough since 1972 stating premises are not fit for habitation.

21. Documents showing inspections, repairs or alterations of sanitary sewer pipes or infrastructure or testing of storm water systems in Upland Borough by Upland Borough before 1975 or by DELCORA 1975-present.

22. Documents showing inspections, repairs, alterations, & construction of storm water and sewer lines within Upland Borough 1939-present.

23. Documents indicating investigation or testing of storm water or sanitary water lines in Upland Borough to determine if there was leaking or cross-contamination from one system to another, 1991-present.

24. Documents indicated what organization constructed, repaired or altered and storm water or sanitary sewer system in Upland Borough 1939-present, and also indicating what was done to do so.

25. Army Corps of Engineering documents for all storm water or sanitary water systems including statements of flood-period standards for the year of the work for any such systems built in Upland Borough.

26. Flood water and storm water studies for all development in Upland Borough in Upland Borough upstream from and in the same drainage as Petitioners' premises 1991-present.

27. Army Corps of Engineering studies for 1972 redirecting Upland Borough creeks.

28. Storm water reports received from Brookhaven Borough, Parkside Borough, Middletown Township and Chester Township regarding developments which drain into the same drainage within which Petitioners' premises lies 1991-present.

29. Documents indicating whether premises located at 310 10<sup>th</sup> Street, Upland, Upland Borough, Delaware County, PA are within the scope and ambit of the November 10, 2015 consent decree (see # 18 above)

30. Documents indicating all efforts DELCORA has made since November 10, 2015 to comply with the November 10, 2015 consent decree.

31. Expert reports of the parties in the consent decree action.

32. Any videotapes, audiotapes or photographs within the scope of Nos. 1-31 above.



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF DELAWARE

Denise M. Marusco Godfrey &  
Byron J. Godfrey

v.  
Upland Borough + Delaware  
County Regional Water Quality  
Control Authority

Civil No. 2015-10381

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS

FOR DISCOVERY PURSUANT TO RULE 4009.22

To: Philip Yeany, Office of Regional Counsel, U.S. EPA Region III,  
1650 Arch Street, Phila., PA 19103-2027 (Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered to produce  
the following: See attachment

at: J. Michael Considine, Jr., J. Michael Considine, Jr., P.C.,  
1845 Walnut St, Suite 1300, Phila., PA 19103 \* (Address)

If you fail to produce the documents or things required by this NOTICE TO PRODUCE, you  
may be subject to the sanctions authorized by Rule 234.5 of the PA Rules of Civil Procedure.  
This subpoena was issued at the request of the following person:

\* please produce March 27, 2017  
at 10 a.m.

Name: J. Michael Considine, Jr.

Address: J. Michael Considine, Jr., P.C.  
1845 Walnut Street, Suite 1300  
Philadelphia, PA 19103

Telephone: (215) 564-4000

Supreme Court ID#: 37294

Attorney for Plaintiff

Important Note:

ALL QUESTIONS  
REGARDING THIS  
SUBPOENA MUST BE  
ADDRESSED TO THE  
PERSON NAMED AT THE  
LEFT, WHO REQUESTED THAT  
IT BE ISSUED, **NOT TO THE**  
**THE OFFICE OF JUDICIAL**  
**SUPPORT**

BY THE COURT:

DATE: March 6, 2017  
SEAL OF THE COURT

Melinda Puff  
CLERK, OFFICE OF JUDICIAL SUPPORT



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF DELAWARE

:  
:  
: Civil No. \_\_\_\_\_  
:  
:  
:

To: \_\_\_\_\_ (Person Served With Subpoena)

You are required to complete the following Certificate of Compliance with producing documents or things pursuant to the Subpoena. Send the documents or things, along with this Certificate of Compliance (with your original signature), to the person at whose request the subpoena was issued (see **Address on the reverse**).

**DO NOT SEND THE DOCUMENTS, OR THINGS, OR THE  
CERTIFICATE OF COMPLIANCE TO THE DELAWARE COUNTY  
OFFICE OF JUDICIAL SUPPORT**

CERTIFICATE OF COMPLIANCE WITH SUBPOENA TO PRODUCE  
DOCUMENTS OR THIGS PURSUANT TO RULE 4009.23

I, \_\_\_\_\_ (Person Served with Subpoena),

certify to the best of my knowledge, information, and belief that all documents or

things required to be produced pursuant to the subpoena issued on \_\_\_\_\_  
(Date of Subpoena)

have been produced.

\_\_\_\_\_  
(Signature of Person Served with Subpoena)

Date: \_\_\_\_\_